

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUNIOR WALKER and TAHERA BULLEN-WALKER,
on behalf of themselves and on behalf of their infant
children T.W. and N.W.,

Plaintiffs,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.
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**DECLARATION OF
CHARLES CAREY IN
SUPPORT OF
DEFENDANTS' MOTION**

12-CV-2535 (WFK) (MDG)
Served 5/24/2014
Filed by ECF

CHARLES CAREY, under penalty of perjury, declares pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the Assistant Corporation Counsel at the New York City Law Department assigned to the defense of the above-captioned action. I replaced Janice Casey Silverberg, Esq. as the attorney of record in this matter in mid-2013 and have been involved in all aspects of the case, including discovery and the instant motion practice.

2. I submit this declaration in support of Defendants' motion for judgment on the pleadings, or, in the alternative, summary judgment. I base it on my own personal knowledge, as well as a review of records kept in the ordinary course of business at the New York City Administration for Children's Services ("ACS") and the Kings County Family Court.

Documents that May Be Relied Upon in Granting the Motion Pursuant to either Rule 12(c) or Rule 56

3. The documents in this sub-section are either a part of the Kings County Family Court record or are transcripts of that proceeding, and this Court may therefore consider them without converting the instant motion into a motion for summary judgment. See, e.g., Chambers v. Time Warner, Inc., 282 F.3d 147, 152-53 (2d Cir. 2002); Carvalho v. Stevens, No. 12 Civ. 128, 2013 U.S. Dist. LEXIS 100467, at *3-4 (S.D.N.Y. July 17, 2013); Graham v. City of New York, 869 F. Supp. 2d 337, 346-47 (E.D.N.Y. 2012).

4. Annexed hereto as Exhibit “A” is a redacted copy of the Oral Report Transmittal (“ORT”) that the New York State Central Register (“SCR”) made regarding the initial allegations of maltreatment on the part of Plaintiff Junior Walker’s sister-in-law, who is not a party to this action. Redactions were made to conceal the identities of the sister-in-law, the children, and the mandated reporter.

5. Annexed hereto as Exhibit “B” is a redacted copy of the Verified Petition, dated April 30, 2009, that commenced a neglect proceeding against Plaintiff Junior Walker and his sister-in-law for the neglect of Plaintiff T.W. Redactions were made to conceal the identities of the sister-in-law, the children, and the mandated reporter.

6. Annexed hereto as Exhibit “C” is a redacted copy of the Verified Petition, dated April 30, 2009, that commenced a neglect proceeding against Plaintiff Junior Walker and his sister-in-law for the neglect of Plaintiff N.W. Redactions were made to conceal the identities of the sister-in-law, the children, and the mandated reporter.

7. Annexed hereto as Exhibit “D” is a redacted Order, dated April 30, 2009, directing the temporary removal of Plaintiff T.W. from the Walker home, as signed by the Honorable Bryanne A. Hamill of Kings County Family Court. Redactions were made to conceal the identities of the sister-in-law and the children.

8. Annexed hereto as Exhibit “E” is a redacted Order, dated April 30, 2009, directing the temporary removal of Plaintiff N.W. from the Walker home, as signed by Judge Hamill. Redactions were made to conceal the identities of the sister-in-law and the children.

9. Annexed hereto as Exhibit “F” is a true and correct redacted copy of the transcript of the first day of a hearing in front of Judge Hamill regarding Mr. Walker’s request for the immediate return of his children pursuant to Section 1028 of the New York Family Court Act. Those proceedings occurred on May 6, 2009. Redactions were made to conceal the identities of the sister-in-law, the children, and the mandated reporter.

10. Annexed hereto as Exhibit “G” is a true and correct redacted copy of the transcript of the second day of a hearing in front of Judge Hamill regarding Mr. Walker’s request

for the immediate return of his children pursuant to Section 1028 of the New York Family Court Act. Those proceedings occurred on May 7, 2009. Redactions were made to conceal the identities of the sister-in-law and the children.

11. Annexed hereto as Exhibit “H” is a true and correct redacted copy of a Temporary Order of Protection issued against Mr. Walker by Judge Hamill on May 7, 2009. Redactions were made to conceal the identities of the sister-in-law and the children.

12. Annexed hereto as Exhibit “I” is a true and correct redacted copy of the final Order and Decision in the neglect case against Mr. Walker, dated June 13, 2011, by the Honorable Emily M. Olshansky of Kings County Family Court. Redactions were made to conceal the identities of the sister-in-law, the children, and the mandated reporter.

Documents that May Be Relied Upon in Granting the Motion Pursuant to Rule 56

13. Annexed hereto as Exhibit “J” is a true and correct copy of portions of the transcript from Mr. Walker’s examination before trial in this case.

14. Annexed hereto as Exhibit “K” is a is a true and correct copy of portions of the transcript from Defendant Stacey Robinson’s examination before trial in this case.

15. Annexed hereto as Exhibit “L” is a true and correct copy of portions of the transcript from Defendant Gladys White’s examination before trial in this case.

16. Annexed hereto as Exhibit “M” is a true and correct copy of portions of the transcript from Defendant Karen Sawyer-Barro’s examination before trial in this case.

17. Annexed hereto as Exhibit “N” is a true and correct copy of portions of the transcript from Defendant Sharon Rogers’s examination before trial in this case.

18. Annexed hereto as Exhibit “O” is a true and correct copy of portions of the transcript from Defendant Burton Lewis’s examination before trial in this case.

19. Annexed hereto as Exhibit “P” are two documents given to Plaintiff Junior Walker when his children were removed from his care, as provided by Plaintiffs during discovery, redacted to conceal the identities of the children and Mr. Walker’s sister-in-law.

20. Annexed hereto as Exhibit “Q” is a response by Jacqueline McKnight to an interrogatory made by Plaintiffs.

Dated: May 24, 2014
New York, New York

s/

CHARLES CAREY (CC 5902)
Assistant Corporation Counsel